

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Alquist & Cunneen Analyst: Kristina North Bill Number: AB 2

Related Bills: See previous analyses Telephone: 845-6978 Amended Date: August 16, 1999

Attorney: Patrick Kusiak Sponsor:

SUBJECT: Exclusion/Educational Assistance Programs Payments/Includes Graduate Level Courses

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED December 7, 1998 and AMENDED April 21, June 1 and June 28, 1999, STILL APPLY.

☒ OTHER - See comments below.

SUMMARY OF BILL

Under the Personal Income Tax Law, this bill would allow an employee to exclude from gross income the amount that an employer pays or incurs, up to \$2,625, for the employee to take graduate level courses in pursuit of a law, business, medical or other advanced academic or professional degree beginning on or after July 1, 1999, and on or before June 30, 2007.

The Franchise Tax Board (FTB) would be required to annually report to the Legislature the number and amount of exclusions claimed, to the extent the data are available.

SUMMARY OF AMENDMENT

The July 13, 1999, amendments resolve the technical consideration addressed in the department's analysis of the bill as amended June 28, 1999, and adds a requirement for the FTB to annually report to the Legislature the number and amount of exclusions claimed. The August 16, 1999, amendment specifies that the FTB provide the report to the extent the data are available.

Except for the above discussion and the new implementation consideration, the remainder of the department's analyses of the bill as introduced December 7, 1998, and as amended April 21, June 1, and June 28, 1999, still applies. The Board position is restated for convenience.

POLICY CONSIDERATIONS

Since this bill would create a difference between state and federal income, taxpayers who receive employer assistance for graduate level courses would be required to file a form 540 state income tax return to account for the

Board Position:

☒ S
☐ SA
☐ N

☐ NA
☐ O
☐ OUA

☐ NP
☐ NAR
☐ PENDING

Department/Legislative Director

Date

Geoff Way for J. Rosas

9/10/1999

difference. Thus, these taxpayers would be unable to file the simpler forms 540EZ and 540A. However, a potential for such difference exists even if this bill is not enacted since pending federal legislation (H.R. 323 and S. 211) would permanently extend the federal educational assistance exclusion and expand the exclusion to include graduate level courses. The maximum amount of federal exclusion for graduate level courses would be \$5,250 while this bill would provide an exclusion up to \$2,625 for graduate level courses.

IMPLEMENTATION CONSIDERATIONS

Unlike credits and deductions, exclusions are not generally reflected on the state income tax return; thus, the information necessary for FTB to prepare the report required by this bill as it relates to the existing exclusion for education is not available. However, the difference between the state and federal exclusion amount created by this bill would be reflected on the employee's W-2, and affected taxpayers would account for this difference by making an adjustment on the Schedule CA, which accompanies the 540. To prepare the report required by this bill, the department would manually capture the amount of the graduate level exclusion by reviewing each return. As the department does not currently capture separate Schedule CA items, this would increase processing time and costs.

DEPARTMENTAL COSTS

Total departmental costs to implement this bill are estimated to be \$226,000 for 2000/2001 and \$151,000 ongoing costs. The costs would be primarily attributable to forms changes, additional processing costs, potential taxpayer questions and taxpayer errors related to the new request for information regarding undergraduate and graduate level educational assistance.

BOARD POSITION

Support.

At its meeting of March 23, 1999, the Franchise Tax Board voted 2-0 to take a support position on this bill as introduced December 7, 1998.